

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

SOPHIA POOLE,	)	
	)	
Plaintiff,	)	Civil Action No. 10-722
	)	
v.	)	Judge Ambrose
	)	Magistrate Judge Bissoon
OFFICER FRANK MARKS, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

This case was referred to United States Magistrate Judge Cathy Bissoon for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Rules 72.C and 72.D of the Local Rules for Magistrates.

On December 3, 2010, the magistrate judge issued a Report (Doc. 36) recommending that the Motion to Dismiss (Doc. 26) filed by Defendants Rose Scabilloni and Peter Scabilloni (collectively, the "Scabilloni Defendants") be granted, and that Plaintiff's claims against the Scabilloni Defendants should be dismissed for lack of subject matter jurisdiction. The magistrate judge further recommended that the Scabilloni Defendants' alternative Motion for More Definite Statement should be denied as moot. Service of the Report and Recommendation was made on the parties, and Plaintiff filed Objections (Doc. 39).

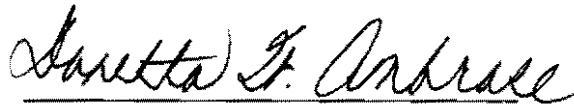
After a *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation and the Objections thereto, the following Order is entered:

AND NOW, on this 20<sup>th</sup> day of Dec., 2010, IT IS HEREBY ORDERED that the Scabilloni Defendants' Motion to Dismiss (Doc. 26) is **GRANTED**, and

Plaintiff's claims against Defendants Rose Scabilloni and Peter Scabilloni are **DISMISSED WITH PREJUDICE** to reinstitution of this action against the Scabilloni Defendants in this Court, but **WITHOUT PREJUDICE** to institution of a similar action in state courts. See Goode v. City of Phila., 539 F.3d 311, 327 (3d Cir. 2008) (holding that dismissal for lack of jurisdiction should be made without prejudice to instituting similar action in state court, because district court without jurisdiction cannot decide the merits of a complaint).

The Scabilloni Defendants' alternative Motion for More Definite Statement is **DENIED** as moot.

The Report and Recommendation of Magistrate Judge Bissoon dated December 3, 2010 (Doc. 36) is hereby adopted as the opinion of the District Court.



Donetta W. Ambrose  
United States District Judge

cc:

Sophia Poole (via U.S. First-Class Mail)  
All counsel of record (via CM/ECF e-mail)